

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL ANTHONY MILLER,

Plaintiff, No. CIV S-04-2509 MCE KJM P

vs.

ARNOLD SCHWARZENEGGER,

Defendants. ORDER TO SHOW CAUSE

Plaintiff is a state prisoner proceeding pro se with an action for violation of civil rights under 42 U.S.C. § 1983. Plaintiff has filed an application to proceed in forma pauperis.

The court takes judicial notice under Federal Rule of Evidence 201 of the motion to dismiss filed in Miller v. Kuhn, CIV S 03-1270 FCD PAN P. It appears that plaintiff has "struck out" under 28 U.S.C. § 1915(g) and therefore may not proceed in forma pauperis. See Mot. To Dismiss (CIV S 03-1270, docket # 15), Exs. B, C, D & E. Good cause appearing, the court will order plaintiff to show cause why he should not be ordered to pay the \$150.00 filing fee in effect at the time of filing of this action before proceeding further.

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1 Accordingly, IT IS HEREBY ORDERED that, within twenty days of this order,
2 plaintiff shall show cause why he should not be required to pay the \$150.00 filing fee for this
3 action before proceeding. Plaintiff's failure to respond to this order will result in a
4 recommendation that this action be dismissed.

5 DATED: October 19, 2005.

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7 UNITED STATES MAGISTRATE JUDGE
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